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THE LUNACY LAWS OF VIRGINIA; ARE THEY CONSTITUTIONAL?

In view of the many commitments to the Hospitals (Insane Asylums) of Virginia which have been irregular under the past and present laws of the State, the question may well be asked whether or not the lunacy laws of Virginia are constitutional.

The Fifth Amendment to the Constitution of the United States provides: that "no person shall be deprived of life, liberty or property without due process of law."

What and where is the "due process of law" provided in the Fifth Amendment of the Constitution of the United States? Plainly embedded in the Sixth Amendment of the Constitution of the United States, which guarantee the right to a trial by jury before any person can be legally convicted of crime; and if horse-thieves and murderers are entitled to the right of a trial by jury before being deprived of their liberty, surely it follows that those who are actually or suspected of being insane are entitled to the same right of trial by jury as the class of criminals mentioned above before being deprived of their liberty.

To be insane is not a crime, and since the Constitution of the United States protects the suspected criminal by giving him a trial by jury, surely it follows that the suspected lunatic is entitled to the same protection before being incarcerated in a lunatic asylum.

If any Virginia judge believes for a moment that confinement in a lunatic asylum is not a deprivation of his liberty, let him try it for a week in any of the Virginia asylums and he will find to his sorrow that he has been deprived of his liberty just as much as he would be in the State Penitentiary.

It is true that some of the patients are given a considerable measure of liberty. They are given passes and come and go as they please, within certain limits, but the same privilege is extended to the "trusties" in the State Penitentiary and, therefore, this privilege does not change the status of the unfortunate who has been placed in any of the Virginia asylums without a trial by jury.

To sum up the argument, can any person in the United States

be deprived of right or liberty without "due process of law?" No. And this "due process of law" is not the due process of Virginia law but the great "due process of law" guaranteed by the Constitution of the United States to criminals of every kind; and again, surely even the actual lunatic, not guilty of any crime, is entitled under the Constitution to the same protection as the horse-thief or the murderer.

These views are submitted with the hope that the next session of the Virginia Legislature will give some attention to the revision of the State law with reference to insane persons, and provide that no one shall be committed to any of the State Hospitals without a jury trial.

As a general law of this State now exists, any person, from the Governor down to the humblest citizen, can be sent to an insane asylum simply by an examination before one justice and two physicians; and in many cases the unfortunate has not been permitted to appear before the commission named above, but has gone into total deprivation of his liberty without being given the opportunity to say one word in his defense.

Too many crimes have been committed against liberty in the State of Virginia under its present lunacy laws and the day will come when they will recoil upon those who have enacted them and those who have obeyed and fulfilled them.

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